

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill No.
3 690 entitled “An act relating to explanation of advance directives and treating
4 clinicians who may sign a DNR/COLST” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 18 V.S.A. § 9703 is amended to read:

8 § 9703. FORM AND EXECUTION

9 * * *

10 (b) The advance directive shall be dated, executed by the principal or by
11 another individual in the principal’s presence at the principal’s express
12 direction if the principal is physically unable to do so, and signed in the
13 presence of two or more witnesses at least 18 years of age, who shall sign and
14 affirm that the principal appeared to understand the nature of the document and
15 to be free from duress or undue influence at the time the advance directive was
16 signed. A health care provider may serve as a witness to the principal’s
17 execution of the advance directive under this subsection. If the principal is
18 being admitted to or is a resident of a nursing home **or residential care**
19 **facility** or is being admitted to or is a patient in a hospital at the time of
20 execution, the individual who explained the nature and effect of the advance
21 directive to the principal pursuant to subsection (d) or (e) of this section may

1 also serve as one of the witnesses to the principal's execution of the advance
2 directive under this subsection.

3 * * *

4 (d)(1) An advance directive shall not be effective if, at the time of
5 execution, the principal is being admitted to or is a resident of a nursing home
6 as defined in 33 V.S.A. § 7102 or a residential care facility, unless **an**

7 **ombudsman, the State Long-Term Care Ombudsman or a representative**

8 **of the Ombudsman's Office, as defined in 33 V.S.A. § 7501; a patient**

9 **representative; a recognized member of the clergy; an attorney licensed**

10 **to practice in this State, or; a Probate Division of the Superior Court**

11 **designee; or an individual designated under subsection 9709(d) of this title**

12 **by the nursing home or residential care facility or by a hospital one of the**

13 **following individuals** signs a statement affirming that he or she has explained

14 the nature and effect of the advance directive to the principal:

15 **(A) the State Long-Term Care Ombudsman or a representative**

16 **of the Ombudsman's Office, as defined in 33 V.S.A. § 7501;**

17 **(B) a recognized member of the clergy;**

18 **(C) an attorney licensed to practice in this State;**

19 **(D) a Probate Division of the Superior Court designee;**

20 **(E) an individual designated by a hospital pursuant to subsection**

21 **9709(d) of this title;**

1 **(F) an individual who was volunteering at the nursing home or**
2 **residential care facility without compensation at the time of the execution**
3 **and had been trained [by whom?] to explain advance directives in a**
4 **nursing home or residential care facility setting; or**

5 **(G) the principal’s primary care clinician, if the clinician was not**
6 **employed by the nursing home or residential care facility at the time of**
7 **the explanation.**

8 **(2)** It is the intent of this subsection to ensure that residents of nursing
9 homes and residential care facilities are willingly and voluntarily executing
10 advance directives.

11 (e) An advance directive shall not be effective if, at the time of execution,
12 the principal is being admitted to or is a patient in a hospital, unless ~~an~~
13 ~~ombudsman~~, the State Long-Term Care Ombudsman or a representative of the
14 Ombudsman’s Office, as defined in 33 V.S.A. § 7501; a representative of the
15 **Office of the Health Care Advocate; a patient representative; a**
16 **representative of the Office of the Mental Health Care Ombudsman**
17 **established in section 7259 of this title;** a recognized member of the clergy; _;
18 an attorney licensed to practice in this State; _; a Probate Division of the
19 Superior Court designee; _; or an individual designated under subsection ~~9709(e)~~
20 9709(d) of this title by the hospital signs a statement affirming that he or she
21 has explained the nature and effect of the advance directive to the principal.

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Sec. 2. 18 V.S.A. § 9708 is amended to read:

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE
PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL
CARE FACILITIES REGARDING DNR ORDERS AND COLST

(a) As used in this section, “clinician” shall have the same meaning as in section 9701 of this title and shall also include a duly licensed medical doctor, osteopathic physician, advanced practice registered nurse or nurse practitioner, or physician assistant who treated the patient outside Vermont and held a valid license to practice in the state in which the patient was located at the time the DNR/COLST was issued.

* * *

Sec. 3. 18 V.S.A. § 9709(d) is amended to read:

(d)(1) Every nursing home and residential care facility shall/may? designate an adequate number of specific? individuals to explain the nature and effect of an advance directive to patients as required by subsection 9703(d) of this title.

(2) Every hospital shall designate an adequate number of individuals to explain the nature and effect of an advance directive to patients as required by subsection 9703(e) of this title.

Sec. 4. EFFECTIVE DATE

1 This act shall take effect on passage.

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9 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE